

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Max Reed, II,

Petitioner

v.

State of Nevada, *et al.*,

Respondents

Case No.: 2:22-cv-01763-APG-EJY

**Order Dismissing Petition and Closing
Case**

Max Reed, II has submitted what he styled as a notice of constitutional challenge. ECF No. 1-1. He has paid the \$5.00 filing fee for a habeas action. *See* ECF No. 12. He argues that the way he was charged under Nevada’s murder statutes violated his constitutional rights. Thus, his “notice” is actually a petition for writ of habeas corpus brought under 28 U.S.C. § 2254.¹ But Reed already has a § 2254 habeas corpus petition pending before this court challenging the same judgment of conviction. *See* Case No. 2:17-cv-00648-RFB-NJK. He would need to get authorization from the Ninth Circuit Court of Appeals to file a second and successive petition. 28 U.S.C. § 2244(b)(3). The court notes that the Federal Public Defender represents Reed in the earlier-filed petition, and his counsel has indicated that they intend to file an amended petition in that case. Accordingly, I will dismiss this petition because Reed has an ongoing habeas action challenging the same judgment of conviction and he did not obtain leave of the appeals court to file a second and successive petition.

I THEREFORE ORDER that the Clerk of Court file the petition (ECF No. 1-1).

¹ Section 2254 states that a federal district court “shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.”

1 I FURTHER ORDER that the petition is DISMISSED.

2 I FURTHER ORDER that a certificate of appealability will not issue.

3 I FURTHER ORDER that the Clerk enter judgment accordingly and close this case.
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6 DATED this 12th day of June, 2023.
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ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE